

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17230 of 2004

Between:

Mohd. Jani E.77239, S/o.Shaik Mohammed,
APSRTC, II-Depot, Nizamabad.

..... PETITIONER

AND

- 1 The APSRTC., Nizamabad, rep.by its Regional Manager.
- 2 The Depot Manager, II-Depot,, APSRTC, Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, especially one in the nature of writ of Mandamus;- i) declaring the impugned order No.E2/4030(8)/04-NZB-II dated: 17-8-04 issued by the 2nd respondent as illegal arbitrary and set aside the same. ii) consequently direct the respondents to continue the petitioner in service either as driver or in any other suitable post, duly protecting his pay and allowances.

Counsel for the Petitioner:MR.K.VASUDEVA REDDY

Counsel for the Respondent No.: MR.V.T.M.PRASAD

The Court at the stage of admission made the following ORDER :

The petitioner worked as a Driver in the respondent corporation since 1978. He is suffering from heart ailment, and was referred to the R.T.C. hospital, at Tarnaka. The R.T.C. hospital, in turn, referred him to the NIMS for examination and the NIMS doctor opined that the petitioner should be entrusted with light duties and required

the petitioner to come for review after two months. In pursuance of the report of the doctor at NIMS, the doctor at Tarnaka hospital mentioned that the petitioner is not fit for duties. When the specialist doctor at NIMS stated that the petitioner shall be entrusted with light duties, the doctor at Tarnaka hospital is not supposed to impose his knowledge and give his opinion that the petitioner is not fit for duties. The order given by the second respondent on 17-08-2004 is also vague and it does not disclose as to what case is pending against the petitioner and why should he be kept on leave till the disposal of such case. In the light of the opinion of the doctor of NIMS, the second respondent ought to have considered whether the petitioner can be engaged with any light work, whether there is any possibility of entrusting such light work, whether there are vacancies of such posts to accommodate the petitioner till he becomes fit for discharging the duties of driver of the bus, and should have passed an order giving those reasons for not providing light work in the Corporation. Since the order of the second respondent dated 17-08-2004 is vague, it is liable to be set aside.

The writ petition is accordingly allowed. The order dated 17-08-2004 keeping the petitioner on leave with effect from 17-08-2004 till the disposal of the case is set aside. The second respondent is directed to consider the issue once again keeping in view the opinion expressed by the doctor at NIMS and pass appropriate orders whether it is possible to provide light work to the petitioner, as advised by the doctor. If not, to pass order giving sufficient reasons as to why they cannot provide alternative employment with light work within two weeks from the date of receipt of a copy of this order. No order as to costs.

_____ Dr. G. Yethirajulu, J.

Dt: 4th October, 2004.

Note:

CC in two days.

(B/O)

RNS.

To

- 1 The APSRTC., Nizamabad, rep.by its Regional Manager.
- 2 The Depot Manager, II-Depot,, APSRTC, Nizamabad.
3. Two CD copies.